

## REMARKS/ARGUMENTS

Applicants are responding to the 10/15/2006 Office Action calling for a two-way restriction and election of species. The restriction required election of one of the following inventions:

- I. Claims 1-15, drawn to a method of detecting a *Bacillus anthracis* protein in a competitive immunoassay format.
- II. Claims 16-27, drawn to a method of detecting antibodies with a fluorochrome labeled reagent that directly binds to the antibody.

Applicants elect Group I, claims 1-15 drawn to a method of detecting a *Bacillus anthracis* protein in a competitive assay, with traverse. Applicants also elect the species claims 1 – 15 for the detection of protective antigen protein. Applicants contend that newly amended claim 1 is now generic to detection of lethal factor, protective antigen and edema factor protein (i.e., now contained in newly added claim 28), native or recombinant *Bacillus anthracis* protein or fragment (i.e., claim 6) and native or recombinant *Bacillus anthracis* protective antigen, edema factor or lethal factor (i.e., claim 6).

Claim 1 was amended by deleting from step (a), “protein” and adding “*Bacillus anthracis* polypeptide” and also by adding to step (b), “consisting of *Bacillus anthracis* polypeptide.” Other changes were also made to claim 1 in order to improve clarity of reading. Applicants also added claim 28, which depends from claim 1, and includes the species protective antigen, lethal factor and edema factor.

Attorney Docket No. NC 84,641

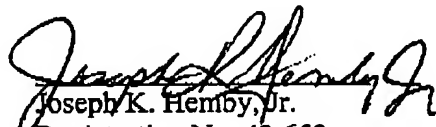
Traverse

There are two criteria for a proper requirement for restriction between patentably distinct inventions: (A) the invention must be independent or distinct; and (B) there must be a serious burden on the Examiner if restriction is required. MPEP 803.

In the current case, both Groups I and II are both contained in Class 435, with the method of using competitive immuno-assay (i.e., FP, FLT or FRET) applied to the same organism (i.e., *Bacillus anthracis*). Since there is only a limited and narrow prior art search that is required there is no basis to establish that a joint search of Group I and II, in a single application, would be burdensome.

The restriction requirement fails to fulfill the burden of establishing the criteria necessary for a proper restriction requirement. Accordingly, Applicants respectfully request that Group I and Group II claims be rejoined for prosecution in this application.

Respectfully submitted,

  
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